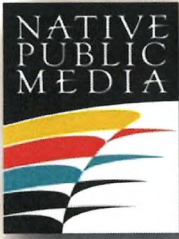


March 14, 2018



Secretary Marlene Dortch
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

RE: Native Public Media Opposition to draft Report and Order (WT 17-79)

Dear Chairman Pai and Members of the Commission:

Board of Directors
Geoffrey Blackwell, Chair
Matthew Rantanen, Treasurer
Richard Davis, Secretary
Joaquin Estus, Member
Raymond Foxworth, Member
Roanne Robinson-Shaddox, Member

President/CEO
Loris Taylor

This letter is submitted by Native Public Media (NPM) in Opposition to the draft Report and Order (WT 17-79) in the above docket, ("*Second Further Notice of Proposed Rulemaking*"). NPM is an established national leader in communications policy making advocating for development that encourages the expansion and strengthening of native choices through media platforms that are community based, local and democratic. Because this recent Commission action impacts tower infrastructure, including broadcast towers, NPM is concerned.

NPM has four primary objections to the draft Report and Order, released on March 1, 2018. First, this draft Report and Order represents another recent example of flawed, rushed FCC rulemaking with an inadequate comment period, forcing parties like NPM to react immediately to have its voice heard, without time for more measured consideration. The FCC's timing suggests a preordained result that renders comments *de facto* meaningless. Moreover, the substance of the draft Report and Order does not reflect meaningful tribal consultation, contrary to the FCC's 2000 "Statement of Policy on Establishing a Government-to-Government Relationship with Indian Tribes," because the draft reflects few, if any, expressed tribal concerns.

Second, NPM objects to the FCC's proposed narrowing of its obligations under the National Historic Preservation Act (NHPA) and National Environmental Policy Act (NEPA) and the restriction of tribal rights secured by those laws. The narrowing of obligations and restriction of tribal rights are primarily for the sake of expediency that benefits the wireless industry at the expense of tribes who have yet to benefit from significant wireless deployment in tribal areas. The Commission has a trust responsibility to tribal nations, not to the wireless industry. The draft Report and Order does not reflect this trust responsibility and diminishes the fabric of tribal sovereignty.

Third, the draft Report and Order will harm Tribes' ability to protect important cultural and historic properties, which is a key purpose of the National Historic Preservation Act, 54 U.S.C. §300101 *et. seq.* The draft Report and Order would make small wireless facilities exempt under NEPA, finding that they do not qualify as "undertakings". This removes a considerable level of activity from the protections of NHPA and the Tower

Construction Notification System. TCNS has historically provided a practical way to provide this protection because it facilitated direct communications between the telecommunications industry and tribal nations to address issues of concern so that it would be unnecessary for the FCC to engage in consultation regarding these TCNS protected cases. Now if the current order is approved, tribal nations will demand direct consultations with the FCC on potentially hundreds of larger tower sites, a far slower process than the tribal-industry process.

Fourth, the draft Report and Order eliminates tribal fees for initial historic preservation assessments by tribal governments. Rather than address possible unreasonable fees imposed by a few tribes the FCC instead takes a broad brush, to deny legitimate compensation to Tribes who expend their resources to address wireless demands. It is critical that assessments are completed by the most knowledgeable people who come from the Tribes who know their lands, people, history and culture. Once tribal cultural and historic properties are damaged, it is often irreversible.

NPM opposes the FCC's action that may result in the destruction of tribal cultural and historic properties and asks that all Commissioners vote against adopting this draft Report and Order.

Respectfully submitted,



NATIVE PUBLIC MEDIA
Loris A. Taylor
President and CEO

cc: Chair Ajit Pai (via Email)
Commissioner Mignon Clyburn (via Email)
Commissioner Michael O'Rielly (via Email)
Commissioner Brendan Carr (via Email)
Commissioner Jessica Rosenworcel (via Email)